

FOREIGN CLAIMS SETTLEMENT COMMISSION
OF THE UNITED STATES
WASHINGTON, D.C. 20579

IN THE MATTER OF THE CLAIM OF

MODESTA RAMOS ALVAREZ

Under the International Claims Settlement
Act of 1949, as amended

Claim No. CU -4779

Decision No. CU- 6837

Petition to reopen; Order of Dismissal dated and entered August 19, 1970.

FINAL DECISION

This claim against the Government of Cuba, opened by the Commission on behalf of the then absent claimant, has been dismissed by Order of the Commission No. CU-731 dated August 19, 1970, for the reason that claimant, upon her return from Cuba to the United States on April 23, 1970, failed to prosecute the claim.

Subsequently, claimant requested that the claim be reopened and submitted supporting evidence, including documentation showing that she has been a national of the United States since birth. In her claim form, claimant stated that her losses in the amount of \$3,213.00 are based upon her ownership of furniture and household goods, located at her home in Havana.

Upon due consideration, claimant's petition to reopen is granted, the Order of Dismissal is set aside and the following decision will be entered.

The record shows that claimant lived in her home with her husband Gregorio Alvarez Rua. According to the Community Property Law of Cuba the properties acquired by one or both spouses during the marriage partnership or by the industry, salary or work of either or both spouses, and the fruit thereof, belong in equal parts to both spouses (See Claim of Robert L. Cheaney and Marjorie L. Cheaney, Claim No. CU-0915). The Commission, therefore, finds that the property subject of this claim was owned by the claimant and her husband in equal shares.

The Cuban Government published in its Official Gazette of December 6, 1961. Law 989 which effectively confiscated all assets, real and personal property, rights, shares of stock, bonds and other property of persons who left Cuba.

Accordingly, the Commission finds that claimant's property in Havana was taken by the Government of Cuba on April 23, 1970, the date of claimant's departure from Cuba for the United States (see also Claim of Wallace Tabor and Catherine Tabor, Claim No. CU-0109, 25 FCSC Semiann. Rep. 54 [July-Dec., 1966]).

Although the claim was timely filed, and whereas it appears that claimant's loss did not occur until April 23, 1970, subsequent to the close of period for filing claims of this nature against the Government of Cuba, the Commission has held that it will consider on their merits claims for losses sustained subsequent to the deadline, so long as consideration thereof does not impede the determination of claims which arose prior to the close of the filing period (see Claim of Vivian Lopez Morales, Claim No. CU-8739).

Section 504(a) of the Act provides that a claim shall not be considered under Section 503(a) of the Act unless the property on which the claim was based was owned wholly or partially, directly or indirectly, by a national of the United States on the date of the loss, and if considered shall be considered only to the extent the claim has been held by one or more nationals of the United States continuously from the date of the loss until the date of filing with the Commission.

The record indicates that claimant's husband Gregorio Alvarez Rua was not a national of the United States on the date of the loss and therefore his one-half interest in the property cannot be considered here.

The Commission finds that claimant's evaluation of the property in the amount of \$3,213.00 is reasonable, but that from this amount must be deducted \$800.00 for depreciation through wear and tear from the year of purchase of the various property items to the date of the loss, resulting in a net value of the property of \$2,413.00.

Accordingly, the Commission concludes that claimant suffered a loss in the amount of \$1,206.50.

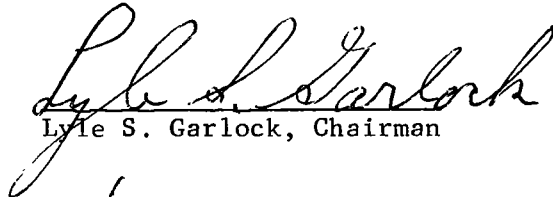
The Commission has decided that in certifications of loss on claims determined pursuant to Title V of the International Claims Settlement Act of 1949, as amended, interest should be included at the rate of 6% per annum from the date of loss to the date of settlement (see Claim of Lisle Corporation, Claim No. CU-0644), and in the instant case it is so ordered.

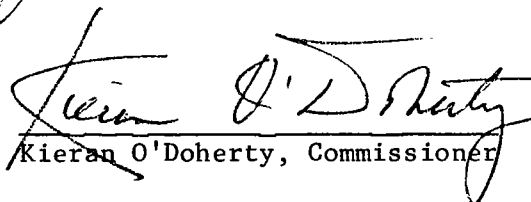
CERTIFICATION OF LOSS

The Commission certifies that MODESTA RAMOS ALVAREZ suffered a loss, as a result of actions of the Government of Cuba, within the scope of Title V of the International Claims Settlement Act of 1949, as amended, in the amount of One Thousand Two Hundred Six Dollars and Fifty Cents (\$1,206.50) with interest thereon at the rate of 6% per annum from April 23, 1970, the date of loss, to the date of settlement.

Dated at Washington, D. C.
and entered as the Final
Decision of the Commission

JUN 30 1972


Lyle S. Garlock, Chairman


Kieran O'Doherty, Commissioner

The statute does not provide for the payment of claims against the Government of Cuba. Provision is only made for the determination by the Commission of the validity and amounts of such claims. Section 501 of the statute specifically precludes any authorization for appropriations for payment of these claims. The Commission is required to certify its findings to the Secretary of State for possible use in future negotiations with the Government of Cuba.

CU-4779